

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 26**

**CROWN MOTOR COMPANY, INC., d/b/a
ACURA OF MEMPHIS**

Employer

and

Case No. 26-RC-8613

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE
WORKERS, AFL-CIO**

Petitioner

DECISION AND DIRECTION OF ELECTION

Crown Motor Company, Inc., d/b/a Acura of Memphis (the Employer)¹ operates a dealership for new and pre-owned Acura vehicles Memphis, Tennessee.² On July 19, 2010, the International Association of Machinist and Aerospace Workers, AFL-CIO (the Union) filed a petition with the National Labor Relations Board (the Board) under Section 9(c) of the National Labor Relations Act (the Act), seeking to represent a unit of service technicians and lube technicians. During the Board hearing before a hearing officer, the Petitioner amended its petition seeking to represent a unit consisting of all technicians.³ Conversely, the Employer contends that an appropriate unit containing service technicians, lube technicians, and internal technicians must include the following

¹ The Employer's name appears as amended at hearing.

² The parties stipulated that the Employer is a Tennessee corporation with a place of business located in Memphis, Tennessee, that is engaged in the sales, leasing and service of automobiles. During the 12-month period ending July 29, 2010, a representative period, the Employer has derived gross revenues exceeding \$500,000 and has purchased and received at its Memphis, Tennessee facility, goods and materials valued in excess of \$50,000 directly from points located outside the State of Tennessee.

³ All technicians consist of service, lube, and internal technicians. The term technicians will be used to refer to all three types of technicians.

job positions: service advisors, porters, cashiers, and parts advisors. The Petitioner seeks a unit consisting of 18 employees, while the Employer seeks a unit consisting of 34 employees.

Following the Board hearing, the Petitioner and the Employer filed briefs with me. I have considered the evidence presented at the hearing and the arguments advanced by the parties. As discussed below, I have concluded that the unit that the Union seeks to represent is an appropriate craft unit. Accordingly, I am directing an election in a unit of approximately 18 employees consisting of service technicians, lube technicians, and internal technicians employed at the Employer's Memphis, Tennessee facility.

To provide a context for my decision on these issues I will first present the applicable legal standards relevant to the unit placement issues, followed by the supervisory structure of the Employer's operations and then the workflow in the Employer's operations. Next, I will set forth the facts concerning the positions at issue including employee benefits, and any interchange of employees at issue. Following that I will set forth the analysis of each issue.

I. LEGAL FRAMEWORK FOR UNIT PLACEMENT ISSUES

The Board's procedure for determining an appropriate unit under Section 9(b) is to first examine the petitioned-for unit. If that unit is appropriate, then the inquiry into the appropriate unit ends. If the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties and has discretion to select an appropriate unit that is different from the alternative proposals of the parties. *Overnite Transportation Company*, 331 NLRB 662, 663

(2000). The Board generally attempts to select a unit that is the smallest appropriate unit encompassing the petitioned-for employee classifications. *Bartlett Collins*, 334 NLRB 484 (2001). It is well settled that the unit need only be an appropriate, not the most appropriate unit. *Morand Bros. Beverage Co.*, 91 NLRB 409, 419 (1950), enfd. on other grounds 190 F. 2d 576 (7th Cir. 1951).

Herein, the Petitioner seeks a craft unit. The Board defines a craft unit as:

[o]ne consisting of a distinct and homogeneous group of skilled journeymen and craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills, and specialized tools and equipment.⁴

Where no bargaining history on a more comprehensive basis exists, a craft unit having a separate identify of skills, functions and supervision, exercising craft skills or having a craft nucleus, is appropriate. See, *MGM Mirage, d/b/a Mirage Casino-Hotel*, 338 NLRB 529 (2002) (holding that a petitioned-for unit of carpenters and upholsterers comprised a craft unit that did not include the remaining employees in the engineering department).

In examining whether a petitioned-for craft unit is appropriate, the Board examines (1) whether the employees take part in a formal training or apprenticeship program; (2) whether the work is functionally integrated with the work of the excluded employees; (3) whether the duties of the petitioned-for employees overlap with the duties of the excluded employees; (4) whether the employer assigns work according to need rather than on craft or jurisdiction lines;

⁴ *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1994)

and (5) whether the petitioned-for employees share common interests with other employees.⁵

If the petitioned-for unit is not a craft unit, then the appropriateness of a given unit is governed by community of interest principles. In determining whether employee groups constitute appropriate collective bargaining units the Board examines such factors as mutuality of interest in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. *Bartlett Collins*, supra citing *Ore-Ida Foods*, 313 NLRB 1016 (1994)

II. FACTS:

A. Supervisory Structure

The president of the Employer, Dan Umansky, has ultimate supervisory authority over all employees. Reporting directly to him are Greg Hapke, general sales manager; Becky Faught, office manager, and Greg Moore, parts and service director.⁶

Prior to the day before the hearing herein, reporting to Greg Moore were: Parts Manager Mike Stone, Shop Foreman Larry Abramson, and the remaining service department employees consisting of the service advisors, cashiers, and

⁵ *Burns & Roe Services Corp*, 313 NLRB at 1308.

⁶ The parties stipulated, and I find based upon the record as a whole, that the President, General Sales Manager, Office Manager, Parts and Service Director, and Parts Manager, and Assistant Parts Manager have the authority to hire, fire, and discipline, or to effectively recommend hiring, firing or discipline, and are supervisors within the meaning of Section 2(11) of the Act.

porter employees. Stone directly supervises Chris Marmiom, assistant parts manager, and three other employees in the Parts department.

Shop Foreman Abramson directly supervised all eighteen technicians in the Service department comprised of service technicians, lube technicians, and internal technicians. However, the day before the hearing, Abramson was demoted to technician. As a result, all technicians, including Abramson, now report directly to Moore.

B. Workflow in Parts and Service Departments

The Employer's facility is a large building that first contains a vehicle showroom that is visible from the street. Behind the showroom is a section of the building that includes a series of offices and the parts department including the parts warehouse before entering into a large open area for the service department that has twenty six service bays and desks for service advisors and the concierge. The section consisting of offices includes enclosed offices for the service advisors, parts department personnel, cashiers office, customer waiting area, break room, and restrooms.

When a customer drives into the side of the service department via the service drive either a porter or a service advisor will greet them. The customer informs that person the purpose of their visit be it for routine maintenance or for a particular problem with the vehicle. This initiates the writing of the repair order by the service advisor. If the customer desires a loaner vehicle then they will generally be directed to the concierge desk where one will be provided. If the

concierge is with another customer either a service advisor or porter can perform this task.

The repair order is first handled by the service advisor who inputs into the computer the vehicle license plate number, vehicle identification number, updates any changes to the customer's address and telephone number and describes the purpose of the visit. Each service advisor is part of a group designated by a color that consists of certain service technicians. A service technician from that service advisor's group is assigned to perform the work on the vehicle. Sometimes a porter and other times the assigned service technician drives the vehicle into a specific service bay. The service technician performs a multi point inspection of the vehicle. The service technician also looks for any additional repairs that may be needed which is referred to as "up-selling."

If the repair order only specifies routine maintenance work such as required once the vehicle has a certain number of miles, the service technician obtains any necessary parts from the parts department and then performs the work. Any additional repair recommendations are noted in the computer system for the service advisor to contact the customer and explain the recommendations of the service technician and ask whether the additional repair work is to be performed. If the customer approves the service technician will perform the added repairs. Should the customer only request an oil change and is willing to wait for its completion, then that work is assigned to a lube technician for prompt service.

If the repair order sets forth a specific problem with the vehicle the service technician identifies the area of concern by visually inspecting the specific vehicle parts in question such as the brake system and/or by performing a diagnostic test of various modules by accessing the information from the computer on board the vehicle. Determining the nature of the problem, the service technician enters the basis for the recommendation into the computer for the service advisor to communicate to the customer. Upon customer approval, the service technician obtains the necessary parts and special tools if needed from the parts department and then performs the repair work.

Once the repair work has been completed, the repair order returns to the service advisor and the service technician returns the repaired vehicle to the parking area. Should the service advisor have any questions about the work that has been performed then he and the service technician will discuss the matter to make sure there is a clear understanding of what repair work was performed and why. Then the service advisor notifies the customer that the vehicle is ready and the repair order is forwarded to the cashier's office.

Upon returning to the facility, the customer goes to the cashier's office to pay for the repair. The porter drives the repaired vehicle to the customer.

C. Duties and Compensation for Positions at Issue

1. Service Technicians

There are approximately 13 service technicians. Service technicians are the only employees who perform repairs on customers' vehicles. Their job is to examine the customer's identification of the problem, ascertain the cause of the

malfunction, and correct the malfunction. The service technician's recommendation to resolve the malfunction is entered into the computer system for the service advisor to review and communicate to the customer. Upon customer approval for the repairs, the technician begins repairing the vehicle.

Depending upon the nature of the problem, visual inspection of the wearable parts in question such as the tires, brakes, belts or hoses sometimes along with gauging their remaining effectiveness may determine the cause of the problem. Other reported malfunctions require diagnostic testing of the modules in question. This is by done by inserting the hookup for the diagnostic machine into the jack of the vehicles computer. The diagnostic machine reads out what, if any, modules are no longer worker properly.

Upon determining the repair that is necessary and what part(s) or module(s), if any, need to be replaced, the service technician replaces the defective part(s) or modules(s) and replaces them with new ones supplied by the parts department. On occasion, the service technician extracts the worn part(s) or module(s) from the vehicle and takes them to the parts department to insure receiving an accurate replacement and discusses replacing the malfunction part(s) or module(s) with the parts advisor and the need for any additional parts that are associated with the replacement part. The service technician then returns to the assigned service bay and inserts the replacement part(s).

Should a service technician be unable to find the root of the malfunction with the vehicle an online help desk manned by engineers can be utilized to help ascertain the cause of the problem. The technician informs the engineer of the

problem and efforts made to determine the cause of the malfunction. The engineer offers suggestions that the service technician implements. This process is repeated if necessary.

In addition to performing the above job duties, a service technician testified that he also performs less skilled job tasks such as replacing an air filter or changing the oil in the vehicle. These job tasks are performed in response to a customer's request or are performed in response to an inspection of the vehicle by the service technician.

Service technicians have their own service bays, equipped with lifts to raise vehicles. They also have a desktop with a computer by which they input the results of their evaluation of, their recommendation for, and actual repair of the vehicle into a computer program that is accessible by the service advisor. In order to make the necessary evaluation of the malfunction and subsequent repairs thereof the service technicians use various tools most of which they purchase and keep in an employer provided tool box. Their purchased tools include basic ones such as various sizes of screw drivers, sockets, and wrenches as well as more complex tools including timing lights, vernier calipers, and digital multi-meters.

On occasion, a service technician has need of special tools. For example, a cylinder honing tool, brake caliper tool, cylinder leak down tester, or compression check tester might be needed to complete a repair. These special tools are provided by the Employer and maintained in the Parts department.

The service technician must be technically inclined and enjoy working with their hands. A high school diploma is not necessary nor any technician experience. Rather, if the applicant has worked on their own car some such as changing the oil then if hired they can be taught the Employer's service system. A new service technician is placed with a more experienced technician. At first they are assigned simple job tasks such as brake changes, oil changes and tire rotation. They then progress to more difficult job tasks such as replacing a timing belt or a transmission.

While service technicians are not required to have any type of licenses or certifications, they are encouraged to take as many of the hundreds of online courses as they can complete. The courses are often updated. This training includes tests that must be completed in order to receive credit. In addition to online training, service technicians also attend periodic week long training out of state. This includes classroom work, hands on service work, and testing. This training is paid for by the Employer.

Service technicians days and hours of work vary. Some technicians work a four day work week that rotates the days worked and days off every week. The work hours are from about 7:00 a.m. to 6 p.m. Others work a five day work week from 8:00 a.m. to 5:00 p.m. Notwithstanding the type of work week, service technicians use their computer to log in and out.

Service technicians' method of payment changed about six weeks prior to the date of the hearing herein. They were paid using a team concept wherein a team of service technicians pooled their work and were paid based upon the

work performed by the team. Currently, they are paid using a group concept which results in the service technician being paid based upon the individual work performed. This combines being paid what is referred to as “flag hours” and clock hour. “Flag hours” refer to industry guidelines for how many hours it should take to perform a particular repair such as replacing a water pump module or transmission module. Thus the technician is paid a certain amount per hour for the amount of hours the industry guidelines sets forth. If the repair job is allotted five hours and the service technician completes it in just three hours the service technician receives his hourly rate for the five hours and can perform another job during the remaining two hours and be paid for seven hours of work during only five hours of actual work time. The clock hour amount paid to service technicians varies from the low teens per hour to low twenties per hour based upon experience.

2. Lube Technicians

The Employer currently employs three lube technicians. Their primary job functions are to perform oil changes visual inspections of vehicles wearable items. They also assist the porters and clean the work area.

Whenever a customer informs the service advisor that they want an oil change and will wait for it the service advisor notifies a lube technician. Sometimes the vehicle is taken to a lube technician by a porter. Other times the lube technician retrieves the vehicle.

Oil changes are performed in one of two special bays that have particular lifts that allow vehicles to be transported in and out quicker than the other service

bays. During the changing of the oil process the lube technician inspects the vehicle to identify potential safety concerns such as worn tires or brakes. If safety concerns are found the lube technician informs the service advisor who will in turn forward the potentially more complicated situation to a service technician. Lube technicians do not remove and replace malfunctioned modules on a vehicle.

Lube technicians also assist porters shuttling vehicles to be repaired from the customer to parking area and back and forth from the parking area to the service area; driving loaner cars to the customer; and driving the repaired vehicle to the customer. They also assist in the cleaning of the service department which includes operating a floor cleaner that resembles a Zamboni.

Hours of work for the lube technicians vary. They work staggered times of the day during Monday through Friday to insure that all of the Employer's scheduled open hours are covered by at least one lube technician. Thus, one lube technician may start their work shift early one morning and leave early while another lube technician might start later in the morning and work until later in the day. If a lube technician works on Saturday then that he is given a day off during the work week.

Lube technicians are paid by the number of clock hours they work. Their rate of pay is in the low teens per hour.

Lube technicians have been hired from applicants who applied for the job from both outside and from within the Employer. There do not appear to be any specific qualifications for a lube technician. The Employer's preferences include

having good references, having an interest in vehicles, having technical ability, and having a serious work ethic.

As in the case with other technicians, lube technicians also are encouraged to take online education classes that include tests. These classes can be taken during work hours or during non-work time. However, as oppose to service technicians, lube technicians do not attend week long classes out of state.

3. Internal Technicians

There are currently two internal technicians employed by the Employer. The primary functions of internal technicians are to perform a pre-delivery inspection of each new vehicle received from the factory and to perform a pre-delivery inspection of each pre-owned vehicle acquired by the Employer. Internal technicians perform their work in assigned service and like the service technicians utilize desktop computers.

A pre-delivery inspection of a new factory vehicle is required by the manufacturer. The internal technician installs factory accessories at the request of the new car department. Factory accessories to be installed are provided by the Parts department and thus there is interaction between the internal technician and the parts advisor.

A pre-delivery inspection of a pre-owned vehicle requires the internal technician to identify repairs that need to be performed on used vehicles. The internal technicians perform what is referred to as a gold check which is a visual inspection of the vehicle to determine what if any repairs are needed. If repairs

are needed the internal technician ascertains the cost of the necessary repair parts from a parts advisor. Information about the type and cost of repairs for a vehicle are forwarded to the used car department for determination of whether the vehicle is to be repaired and sold on the lot or sold to a wholesaler in its current condition.

The qualifications for an internal technician are different from that of the service technician. The Employer prefers that the internal technician have experience repairing pre-owned vehicles. Unlike the service technicians who work on Acuras, the internal technicians work primarily on pre-owned vehicles of other makes and models. However, like service technicians, internal technicians are also encouraged to participate in online education classes and tests.

The average hourly compensation for internal technicians is in the mid-teens and they are paid based upon the “flag hours” assigned to each repair job task. The internal technicians elected to remain as a team rather than go to a group concept which means their work is paid on a pool as oppose to an individual basis..

4. Service Advisors

The five service advisors currently employed by the Employer are generally the first ones to meet and greet each customer upon their arrival in the service department. Their function is to greet each customer in a prompt, courteous manner and let customers who are waiting in line know that they will be helped soon; communicate with customers to determine the nature of the mechanical problem(s) as well as informing them of the value of maintaining their

vehicles in accordance with manufacturers' specifications; conducting a walk around inspection of all vehicles; initiating the repair order explaining the purpose of the customer's visit for the service technician; serve as a liaison by communicating to the customer the service technician's recommendations for the repair, the cost, and the length of time to perform such repairs; and obtaining customer approval to have the service technician perform the repairs.

The duration of time spent between service advisors and service technicians depends upon several factors. Such factors include the nature of the problem with the vehicle, the diagnosis of malfunction with the vehicle, the recommendations to repair the malfunction of the vehicle and the number of inquiries from the customer about the vehicle. To the contrary, the service advisors spend relatively small amounts of time with lube technicians since generally their work orders are routine in nature and if there is additional work it is merely forwarded to a service technician.

Interactions between the service advisor and the service technician or lube technician can take place via email or in person at the service advisor's desk or in the service bay area. The service advisor, lube technician, and the service technician all have an opportunity to "up-sell" a service or part or module to the customer.

While service advisors spend a vast majority of their time working around their desk area in the service department, they have performed some minor

repair work. They have used a battery analyzer to test a customer's vehicle battery and they have a few tools at their disposal but not a tool box.⁷

There are some online classes for service advisors. But, these tests are not necessarily the same as the ones for service technicians. Service advisors also attend out of state hands on and classroom training paid all paid for by the Employer who encourages the completion of training.

Service advisors work during all hours the service department is open. During the week the hours are 7:00 a.m. to 6:30 p.m. and on Saturday from 8:00 a.m. to 5:00 p.m. They are paid a percentage of labor and parts as opposed to being paid an hourly wage. Their average salary is somewhere in the \$40,000 a year range.

5. Porters

The primary function of the five porters employed by the Employer is to assist service advisors, service technicians, lube technicians, internal technicians, and cashiers in any possible manner regarding identifying a vehicle, retrieving a vehicle, and tagging a vehicle.

Porters can be the first employee a customer meets when they come in for service work. A customer may arrive for service and the porter informs them where to park and escorts them to the service advisor. The porter tags the vehicle key and provides the tag number to the service advisor. In addition the concierge will have the porter retrieve a loaner vehicle for a customer when necessary. The service advisor will instruct a porter to retrieve a vehicle to be repaired and drive it to the service bay of a particular service technician. The

⁷ There is no description in the record of the tools used by a service advisor.

service technician may ask a porter to drive the repaired vehicle out of the service bay and onto the parking area to await customer pick up. A cashier also will have a porter retrieve a customer's repaired vehicle.

Porters can also test each vehicle battery that is to be serviced with a battery analyzer. They also spray water on vehicle windshield(s) to test the windshield wiper blades for streaking. Porters can replace batteries, windshield wiper blades, air filters, and some other minor items. But, they do not perform any type of repairs beyond those classified as minor.

Other job assignments of porters include cleaning the shop area which includes using a Zamboni like machine and removing license plates from vehicles.

Porters earn about eight to ten dollars an hour and work staggered shifts whenever the service area is open. Some porters will work from 7 a.m. to 4:00 p.m. and others will work 10:00 a.m. to 6:30 p.m. Qualifications for a job as a porter include owning a valid driver's license, being able to present oneself well, and being to communicate with employees and customers. Porters do not take online classes.

6. Cashiers

There are three cashiers. One of whom also serves as the concierge. The cashiers have an enclosed office located between the showroom area and the service department area. They spend almost the entire work day in the cashier's office. Other offices are adjacent to the cashier area. The cashier serving as concierge sits at a desk located behind the service advisors.

The primary job functions of the cashier include answering the telephone, insuring that the billing for the repair order is correct, and receiving payment for the repair order. The concierge is responsible for providing loaner vehicles to customers upon request.

The cashier reviews the completed repair order with the customer and then accepts payment. She thoroughly inspects every repair order and parts invoice for proper completion and legibility to ensure accuracy and consistency with the customer estimate or quote.

The president of the Employer testified that cashiers interact with technicians on almost every repair order to insure that the number of hours worked is correct; to insure the hours noted as “flag hours” or straight hourly rate, or warranty work are correct; and to insure the parts actually used are correct. These conversations may last two minutes each. There is no interaction necessary if the repair order is a simple oil change. However, a service technician testified that he has not reviewed the accuracy of the repair order with the cashier but instead has reviewed the accuracy of the repair order with his service advisor. Cashiers sometimes walk through the service department area to the break room where the ice machine and drink machines are located, but not to the individual service bays.

The work hours of the cashiers are also staggered in order to insure that someone is present between 7:00 a.m. until 6:30 p.m. For example, one cashier may be scheduled to work from 7:00 a.m. until 4:00 p.m. while another cashier may be scheduled to work from 10:00 a.m. until 6:30 p.m. Cashiers are paid by

the hour at a rate of about ten dollars an hour. The qualifications for a cashier are to have an ability to communicate well with others, to arrive to work on time and to be trustworthy.

7. Parts Advisors

There are three parts advisors in the parts department.⁸ Their primary function is to retrieve parts for technicians including the accompanying parts such as bolts and washers. They also are responsible for storing used batteries in a special location in the parts warehouse that are awaiting disposal.

In order to determine the availability of the requested part(s), the parts advisor uses a computer to see if that part is in stock. If the part is not in the warehouse the parts advisor orders it through the computer system. The president of the Employer testified that parts advisors can go to the service bay area and assist the service technician if needed.

Technicians also go to the parts department to ascertain prices for specific parts and on other occasions they go to the parts department to describe the parts needed and discuss them with the parts advisor. Another occasion when technicians interact with parts advisors is in obtaining special tools from the special tool room located within the parts department. Such tools include a large claw device used to move batteries and various other tools used on a limited basis.

⁸ The counter area where the parts advisors are located and the warehouse where the parts are housed are not located in the service area where the service advisors and service bays are located. Rather, they are located in the enclosed area that includes offices such as the cashier's office that is between the vehicle showroom and the open area referred to as the service department where service bays are located.

The amount of time technicians spend interacting with parts advisors varies greatly. It could be only a minute or two for an easy to obtain part or price quote or special tool to several minutes for an obscure part or price quote or due to delays because of time being spent by parts advisors with other technicians.

There are some online classes for parts advisors for them to review and be tested upon. These tests are not the same as the ones for service or internal technicians. In addition, parts advisors have been sent out of state for hands on and classroom training for a week that was paid for by the Employer.

A parts advisor does need a license to operate a forklift. They are paid on an hourly basis at a set rate.⁹

D. Benefits and Other Terms and Conditions of Work

All of the technicians, service advisors, parts advisors, porters, and cashiers are covered by the same benefit programs, including health insurance and 401(k), and the same vacation and holiday policies. They are also all covered by the same personnel and daily labor relations policies.

In addition, all receive the same break periods and use the same break rooms that include tables and vending machines. They all use the same set of restrooms. All are paid on the same day on a bi-weekly basis. All parking in the same lot and attend the same department meetings.

With the exception of name tags and the dress of the cashiers the record is unclear with regard to the work attire of the employees at issue. All employees apparently wear name tags and the cashiers apparently wear their own clothing. With regard to the other employees while the record indicates that they all wear

⁹ The record does not indicate the hourly wage rate of parts advisors.

an Acura logo on their work clothing the record does not establish any distinguishing dress feature relative to job title. The president of the Employer testified that all employees at issue wear the same uniform but also acknowledged that the dress policy is very lax. He also noted that the Employer is in the process of changing the current black uniform and that some employees may wear green. The testimony about whether or not all employees wear polo shirts or T-shirts or slacks or shorts was unclear.

E. Employee Interchange

There has been limited interchange between the job titles in dispute. No cashier has transferred to or has occupied one of the other job titles involved herein. Neither has a service advisor transferred to a lube technician position. While one parts advisor transferred to either a service or internal technician position, that person thereafter moved to California. This interchange occurred prior to 2007.

The Employer's President testified about three service advisors who once held other service job positions. Two of them are still employed as service advisors. One of these two was an employee who was an internal advisor then transferred to a lube technician and later transferred to either a service or internal technician and now is a service advisor.¹⁰ Another current service advisor once worked as a porter prior to 2003. The other service advisor who is no longer employed by the Employer was a long term technician (either service or internal)

¹⁰ Initially this person was a salesperson who wanted to leave the Employer. That is why the position of internal advisor was created to assist the service director with new and pre-owned vehicles. The internal advisor did not interact with customers. The record indicates that some of these events occurred about two and a half years ago, but the record does not establish the dates of all of the transfers referred to above.

who transferred in 2003 to a service advisor's position.

There is general testimony about a "natural progression" from a porter job position to a lube technician job position. However, the frequency and time frame of such a progression are not set forth in the record.

III. ANALYSIS

A. The Craft Unit Issue

I conclude that the petitioned-for positions comprise an appropriate craft unit. The work performed by service and internal technicians is highly skilled and requires special training. They are the only employees who performed skilled repairs on vehicles. They use different tools and equipment than other service department employees. They are "encouraged" to take online courses to continue their education regarding repairing vehicles.

Service and Internal technicians are the only service employees who log in and out for each repair job since they are paid hourly using "flag hours," which are industry guidelines. Until the day before the hearing they were supervised separately by a shop foreman.¹¹

The duties of service and internal technicians do not overlap substantially with those of other service employees. Although porters or service advisors may change a battery or replace wiper blades and service advisors and parts advisors may discuss the cause and repair of the vehicle's malfunction, "some overlap in lesser-skilled duties does not destroy the appropriateness" of a separate craft

¹¹ The parts department has a parts manager and assistant parts manager who remain in place even after the shop foreman was demoted and the parts and service director became the only supervisor of the technicians.

unit.¹² Thus while there is some functional integration with the work of the other service and parts employees I find that this is outweighed by the remaining factors.

Regarding the lube technicians I find that they along with the service and internal technicians are the only service department employees who change oil in a customer's vehicle. Unlike service and internal technicians who are paid by "flag hours," lube technicians are paid by the hour. They are, however, like the service and internal technicians encouraged to take online education classes to improve their knowledge of the operations of a vehicle. While lube technicians may assist porters in the performance of some of their duties they are paid a higher hourly wage, perform more skilled job duties and are viewed by management as being a step above the porter position. In addition unlike lube technicians porters are not encouraged to participate in online education classes.

In *Dodge City of Wauwatosa, Inc.*, 282 NLRB 459 (1986), the Board found that a petitioned-for unit of the employer's mechanics comprised an appropriate craft unit, rejecting the employer's contention that it was not a craft unit and that an appropriate unit must also include all employees in its service department, including parts employees and body shop employees.¹³ In *Dodge City of Wauwatosa*, the Board found that the mechanics constitute a separate craft unit even though their method of compensation - the same type of flat rate system

¹² *Mirage-Casino Hotel*, 338 NLRB at 533 (although casino engineers may perform low-skilled carpentry repair work, carpenters remain distinct and homogeneous craft unit).

¹³ The Board stated that, "mechanics possessing skills and training unique among other employees constitute a group of craft employees within an automotive ...department, and therefore may if requested, be represented in a separate unit, excluding other service department employees." *Dodge City of Wauwatosa, Inc.*, 282 NLRB at 460 fin.6; *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990); *T-West Sales & service, Inc., d/b/a Desert Toyota*, 346 NLRB 118, 129 (2005).

used by the employer – was the same as that of the body shop employees.¹⁴

Similarly, the petitioned-for unit is a separate craft unit even though the service advisors and parts employees on the same team with service technicians are paid in part on the basis of hours allotted to the work done by service technicians.

In *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990), the employer's "fixed operations department" consisted of service, parts, the body shop and used cars. Each had a separate manager. The service department was further divided into five areas where service technicians worked. Eighty-five per cent of the service technicians were certified by either ASE or a vehicle manufacturer, and they all provided their own tools. Service technicians and body shop employees were paid according to the type of flat rate system used by the employer, while other positions in the service department were paid an hourly wage or a base rate plus commission.¹⁵ The regional director in that case found that service technicians did not constitute a craft unit because the union had sought to include relatively untrained quick service technicians.¹⁶

The Board reversed the regional director and found that a petitioned-for unit of service technicians was an appropriate craft unit, rejecting the employer's position that an appropriate unit must include all service department employees.¹⁷ The Board noted that service technicians were paid differently than other employees and used different skills than other employees. The Board

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. The regional director also included dispatchers (similar to the Employer's service advisors), warranty clerks, courtesy drivers, porters, cashiers and secretaries. Id.

¹⁷ Id. at 877.

noted the absence of evidence of temporary interchange.¹⁸ The Board stressed that the service technicians used their own tools, performed distinct job duties, and had limited contact with other service department employees.¹⁹

The Board in *Fletcher Jones Chevrolet* also discussed quick service technicians who handled oil and filter changes as well as belts, hoses and other simple repair work.²⁰ The Board determined that while the quick service technicians were not as skilled as the other technicians they were engaged in mechanical work and as a result found that “the quick service technicians should be included in the unit as helpers or trainees.”²¹ The Board noted how it has long held that a craft unit “consists of a distinct and homogeneous group of skilled journeymen craftsmen, working as such, together with their apprentices and/or helpers.’ *American Potash & Chemical Corp.*, 107 NLRB 1418, 1423 (1954).”²² The Board in *Fletcher Jones* also noted, “[f]urthermore, in *Dodge City* the Board included lube and oil work employees in the craft unit.”²³

Many of the factors supporting the Board’s decisions in both *Dodge City of Wauwatosa* and *Fletcher Jones Chevrolet* are also present here. As in both of those decisions, the service technicians and in the current case the internal technicians, possess unique skills, use more complex and valuable tools and equipment than other service department employees, are paid according to a different method, are educated on different subjects than other service

¹⁸ Id. at 876-877.

¹⁹ Id. at 876.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

department employees, and were until recently supervised separately than other service department employees.

The Board in *Fletcher Jones Chevrolet* reached its decision notwithstanding that there was evidence of daily work-related contact between service technicians and dispatchers (akin to service advisors) and warranty clerks, and parts personnel as there is here between technicians and service advisors and parts advisors. In this case, there appears to be little work-related contact between service and internal technicians and porters and cashiers.²⁴

Like *Dodge City of Wauwatosa* and *Fletcher Jones Chevrolet*, the duties performed by the technicians herein are integrated to an extent with those of other employees in the fixed operations, yet such integration is not sufficient to require that all fixed operations employees be included in the bargaining unit.²⁵ The same is true in the instant matter.

The Employer, on the other hand, asserts that the unit proposed is not a craft unit citing *Mallinckrodt Chemical Works*, 162 NLRB 387 (1966). First, the Employer contends that its technicians are not highly skilled. This contention relies heavily upon the computerization of service departments, vehicles, and repairs in one large building using an integrated team oriented model that the

²⁴ I note that there is some daily work-related contact between lube technicians and porters, the nature of that interaction is insignificant in that it is generally based upon lube technicians, when available, retrieving a customer's vehicle because the porter is busy. This is similar to service technicians driving a customer vehicle into or out of his service bay because the porter is with performing another job task. Such interaction is minimal at best. As for lube technicians assisting porters in performing cleaning duties in the service area, mere assisting in such a mundane job task is also insignificant interaction.

²⁵ The Board in *Fletcher Jones Chevrolet* rejected the employer's contention that all positions in dispute were so highly integrated and related to the single function of servicing and repairing vehicles as to require their inclusion in one unit. *Id.* At 876-877.

Employer claims is diametrically opposed to the “outmoded” vehicles, method of repair, and dealership model set forth in *Dodge City of Wauwatosa*.

The Employer maintains (1) that there is direct interaction of the service advisor with the service technician as to the analysis and diagnosis of each vehicle brought in for repair; (2) that there is direct interaction of the parts advisor with the service technician and internal technician as to the module needed to repair and other parts that accompany the replacement of that module; (3) that there is direct interaction of the porters and cashiers with the technicians as to the retrieving of vehicles and crediting of “flag hours.” In addition, the Employer proffers that the technicians are not highly skilled in that some are hired “off the street and trained.

With regard to the issue of interaction I note that most of the interaction that occurs between technicians and the service advisors, porters, and cashiers stems from the generating of a repair order. The service advisor for a particular team (designated by color) creates the repair order and assigns it to a service technician or lube technician. Either the technician or porter drives the vehicle into the service bay where the technician performs the analysis, repair or maintenance service of the vehicle. During this process, the service technician internal or lube technician might have interaction with a parts advisor. As previously noted, such limited interaction by other service department employees who do not perform the same type of work as these technicians is simply insufficient to establish significant functional integration. This is especially true in the case of internal technicians who have even less interaction with cashiers and

porters and service advisors than the other technicians. The technicians perform hands on repair of vehicles that require certain tools and sometimes special tools along with continued education to be efficient that the other service department employees do not perform.

Next, the Employer asserts that the petitioned-for unit includes lesser skilled technicians in the craft unit. These arguments are centered on lube technicians and internal technicians performing repetitive work and thus are not highly skilled employees. Specifically, the lube technician inspects and changes oil and performs other minor repairs of vehicles as oppose to more complicated repairs performed by service technicians. Internal technicians prepare new and pre-owned vehicles for sale and so some, but certainly not all, of their job tasks are routine and repetitive in nature.

I find for the reasons set forth previously and stated in *Dodge City of Wauwatosa* and *Fletcher Jones Chevrolet* that lube technicians are to be part of the unit. While their work is not as complicated as service technicians work, their hands on work is more closely related to that of service technicians than that of any other job position. As for internal technicians, they work on Acura vehicles and all other makes and models and thus need more experience than service technicians. Their job tasks are no more repetitive than that of service technicians who can perform the same type of job tasks on Acura vehicles as the internal technician can perform on all other types of vehicles. Actually, both the service and internal technicians have anything but a repetitive routine day in that

the very next repair could be something that they have not performed in a few days or weeks such as transmission or timing belt replacement.

The Employer cites several cases to support its claim that there should be only one large unit. These cases include *Overnite Transportation Co.*, 300 NLRB No. 85 (2000)²⁶; *Austin Ford*, 136 NLRB 1398 (1962); *Jensen's Motorcycle, Inc., d/b/a Honda of San Diego*, 254 NLRB 1248, 1263 (1981); *Worthington Chevrolet* 271 NLRB 365, 366 (1984); *Kevah Konner, Inc.*, 256 NLRB 67, 68 (1091); *Towne Chevrolet*, 230 NLRB 479, 488 (1977); and *W. R. Shadoff*, 154 NLRB 992 (1965).

Concerning *Austin Ford*, the Board in *Dodge City of Wauwatosa* distinguished the two cases in that the employer in *Austin Ford* temporarily shifted its various skilled mechanics between sub-departments as needed and thus there was significant interchange between departments.²⁷ Such interchange was not present in *Dodge City* and is not present in the instant case. Also in *Austin Ford*, the employer had other skilled mechanics in departments that were not included in the petitioned-for unit.

As for *Honda of San Diego*, the union sought to represent a unit of all parts and service department employees in the automobile division, while the employer contended that any appropriate unit had to include the parts and service department employees in the motorcycle division as well. While the Board found the union's petitioned-for unit appropriate that fact is not determinative as to whether a lesser unit in the instant case is also appropriate. T

²⁶ The case found at the cite given 300 NLRB No. 85 is not *Overnite Transportation Co.*, but *WGN of Colorado, Inc.* It is not germane to the issues raised herein and therefore is not discussed.

²⁷ *Dodge City of Wauwatosa*, 282 NLRB at 460; see *Austin Ford*, 136 NLRB at 1399-1400.

In *Worthington Chevrolet* the union sought a unit consisting only of unskilled positions in separate departments (sales and service), with separate supervision. The Union here does not seek any such aggregate of unskilled employees from different departments.

In *Kevah Konner, Inc.*, the Union sought a unit composed of service employees in all departments which was found to be an appropriate unit. The employer had argued that only separate units of service employees in each department were appropriate. Again, the union here does not seek to combine positions from other departments and the fact such units have been previously found to be appropriate is not dispositive of the instant case.

IN *Towne Chevrolet*, the parties agreed on a service and parts department unit and the issue before the Board was whether a full-time student engaged in vocational training belonged in the unit.

Finally I find distinguishable the *W. R. Shadoff* case cited by the Employer. In that case the Board declined the petitioner's request for a unit of service mechanics that would have included employees with less mechanical skills than other employees the petitioner sought to exclude. That situation does not exist in the instant case.

In sum, for the reasons set forth above, I conclude that the positions that the Union seeks to represent comprise an appropriate craft unit.

B. The Traditional Community of Interest Unit Issue

Even if the positions in the petitioned-for unit do not comprise a craft unit, they share a sufficient community of interest separate from the other parts and service employees to constitute an appropriate unit.²⁸

In evaluating whether positions share a community of interest, the Board considers common supervision, similarity in employee' skills and functions; similarity in the scale and manner of determining earnings; similarity in benefits and working conditions; contact among employees; degree of functional integration; interchange; geographical proximity; and the history of any collective bargaining involving the parties. See *Turner Industries Group, LLC*, 349 NLRB 428 (2007); *Kalamazoo Paper Box Co.*, 136 NLRB 134, 137 (1962). The unit sought in the petition need not be the most appropriate unit, as long as it is an appropriate unit. *Dezcon, Inc.*, 295 NLRB 109, 111 (1989). Applying these factors, I find that the service technicians, internal technicians, and lube technicians share a sufficiently distinct community of interest separate from the remaining service and parts department positions.

As explained above, the technicians possess certain skills and abilities as well training neither required or encouraged or utilized in the positions that the Employer seeks to include. Service and internal technicians are also compensated differently than other service department employees. They are compensated on the basis of hours allotted for the work they perform and any

²⁸ As stated above, I find that the petitioned-for unit is an appropriate craft unit. But in view of the Employer's arguments, I am making a separate community of interest analysis as well.

additional work they complete. Service advisors are paid a percentage of labor and parts as opposed to being paid an hourly wage as are the parts advisors, porters, cashiers, and lube technicians.

There has been little permanent interchange and virtually no temporary interchange between the positions that the Union seeks to represent and the remaining parts and service departments. The record only reflects three employees who have permanently transferred to a technician position from another position sought by the Employer or to a position sought by the Employer from a technician position. The Board considers temporary interchange more important than permanent interchange in evaluation of community of interest factors.²⁹

With respect to work location, the various service department positions for the most part have separate work spaces. Service advisors work mainly in their desk area or in enclosed offices separated from the service bay area. Parts employees work in the parts area adjacent to those offices and separated from the service bay area. The technicians all work in an assigned service bay with a fork lift out in the shop area where their tools are located. Cashiers have their own offices. Porters work near the service advisors, concierge work desk and out in the parking area. In short, the work locations do not negate the separate community of interest shared by the technicians.

The Employer seeks to distinguish Board cases finding a unit of technicians (mechanics) appropriate, by arguing that computerization has

²⁹ *Mirage-Casino Hotel*, 338 NLRB at 534; *Ore-Ida Foods, Inc.*, 313 NLRB 1016, 1021 fn 4 (1994), enf. 66 F.3d 328 (7th Cir. 1995).

changed the function of car dealerships and thus made them more functionally integrated as to require the inclusion of the disputed positions.

However, the Board considers functional integration as only one factor in the community of interest analysis. Further, while technicians interact with service advisors, parts advisors, porters and cashiers, the record establishes that the assistance provided by employees in these positions are “peripheral to the regular repair work” performed by technicians.³⁰ The Board has found similar interactions insufficient to negate the appropriateness of a separate unit.³¹

The Employer also relies on *W. R. Shadoff*, 154 NLRB 992 (1965). The union in that case sought to represent a unit of certain highly skilled mechanics and certain other, less skilled service positions, while excluding more skilled service positions such as body shop repairmen. That is not the case herein where there are no other employees in job positions the Employer would include who perform similar or even different skilled repair work.

Another case relied upon by the Employer is *R. H. Peters Chevrolet, Inc.*, 303 NLRB 791 (1991), for support of its position that service advisors must be included. In that case the Board concluded that service advisors shared a sufficient community of interest to warrant their inclusion in a unit of mechanics,

³⁰ *Capri Sun*, 330 NLRB 1124, 1126 (2000) (reversing regional director and finding petitioned-for maintenance unit appropriate despite contact with, and occasional assistance provided by, production employees); see also *Ore-Ida Foods*, 313 NLRB at 1019, 1020 (although petitioned-for unit of maintenance employees had extensive contact with and, at times, assistance from production employees, the employer’s operations were not so highly integrated as to require inclusion of production employees).

³¹ *Yuengling Brewing Co. of Tampa*, 333 NLRB 892, 893 (2001) reversing regional director and finding petitioned-for maintenance unit appropriate despite regular contact with production workers outside the unit; *Ore-Ida Foods*, 313 NLRB at 1020. The Employer’s reliance upon *Jack Madden Ford Sales*, 1-RC-21354, is misplaced. In that case, the issue was whether the unit of service technicians employed at a single facility was appropriate, or whether an appropriate unit must include the service technicians from the employer’s nearby facility. The placement of other service department employees was not at issue.

helpers, body shop technicians and parts department employees. The Board relied upon some factors not present here including the fact that service advisors worked under the same supervision as mechanics which was not true here until the day before the hearing. The Board also noted that service advisors could request mechanics to work overtime as well as that there was regular temporary interchange when a mechanic substituted for an absent service advisor.

The Employer also cites *Gregory Chevrolet, Inc.*, 258 NLRB 233, 238 (1981) to support its position. The union in that case sought to represent a unit of service and parts employees and the employer contended that parts employees must be excluded. The Board affirmed an administrative law judge's decision where he acknowledged that while there were some relative factors that would warrant excluding the parts employees he nevertheless found the requested unit to an appropriate one.³²

Vecellio & Grogan, Inc., 231 NLRB 136 (1977), another case cited by the Employer also is not applicable. In that case, the union sought a unit of maintenance employees and one parts department employee. The employer argued that the parts department employee did not share a sufficient community of interest with the maintenance department employees. The Board disagreed and found the unit to be an appropriate one. The Board further considered that if the lone parts employee were excluded he potentially could be the only unrepresented employee and would be denied the opportunity to be represented in collective bargaining. The last factor is clearly not present in the instant case.

³² Id.

Moreover as previously stated the unit requested need not be the most appropriate unit. It need only be an appropriate one.

Based upon the foregoing, and the record as a whole, I find that a unit consisting of the Employer's service technicians, internal technicians, and lube technicians is appropriate for collective bargaining.

IV. CONCLUSION AND FINDINGS

Based on the entire record in this proceeding, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time service technicians, internal technicians, and lube technicians employed by the Employer at its Memphis, Tennessee facility.

EXCLUDED: All other employees, including, office clerical and professional employees, guards, and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO**. The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or

reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **August 27, 2010**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the

Agency website, www.nlr.gov,³³ by mail, or by facsimile transmission at (901) 544-0008. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

³³ To file the eligibility list electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Regional, Subregional and Resident Offices** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the eligibility list, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlr.gov.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **September 3, 2010**. The request may be filed electronically through E-Gov on the Board's web site, www.nlr.gov,³⁴ but may not be filed by facsimile.

DATED: August 20, 2010



Ronald K. Hooks
Regional Director
National Labor Relations Board
Region 26
80 Monroe Avenue - Suite 350
Memphis, TN 38103-2416

³⁴ To file the request for review electronically, go to www.nlr.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlr.gov.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Crown Motor Company, Inc., d/b/a Acura of Memphis

Employer

and

**International Association of Machinists and Aerospace
Workers, AFL-CIO**

Petitioner

Case 26-RC-8613

DATE OF MAILING: August 20, 2010

AFFIDAVIT OF SERVICE OF Decision and Direction of Election

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by and regular mail upon the following persons, addressed to them at the following addresses:

Employer:

Mr. Dan Umanski
General Manager
Acura of Memphis
2611 Ridgeway Road
Memphis, TN 38119

On Behalf of the Employer:

Mr. Tex McIver, Attorney
Fisher & Phillips LLP
1500 Resurgens Plaza
945 East Paces Ferry Road
Atlanta, GA 30326

Petitioner:

Mr. Ramon A. Garcia
Mr. Dave Porter
Grand Lodge Representatives
IAM, AFL-CIO
1111 W. Mockingbird Lane
Suite 1357
Dallas, TX 75247

Subscribed and sworn to before me this 20th
day of August 2010

DESIGNATED AGENT – Ann Ralph


NATIONAL LABOR RELATIONS BOARD